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10 UNITED STATES DISTRICT COURT  
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
12 WESTERN DIVISION  
13

14 GIGANTIC PICTURES, INC., a ) CASE NO.:  
15 California corporation, )  
16 Plaintiff, ) COMPLAINT FOR DECLARATORY  
17 vs. ) JUDGMENT  
18 WILLIAM HAZELGROVE, an )  
19 individual, )  
20 Defendant. )  
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25 Plaintiff GIGANTIC PICTURES, INC. ("Plaintiff") hereby brings its Complaint  
26 for Declaratory Judgment against Defendant WILLIAM HAZELGROVE ("Defendants")  
27 and alleges as follows:  
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**INTRODUCTION**

25 1. This is a civil action for Declaratory Judgment to declare that Plaintiff  
26 properly exercised its option to purchase from Defendant - and as a result is now the  
27

1 owner of - the motion picture, television, other screen media and certain allied and  
2 ancillary rights (“Rights”) in and to the novel THE PITCHER (the “Work”) written by  
3 Defendant.  
4

5 **THE PARTIES**  
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7 2. Plaintiff is a corporation duly formed under the laws of the State of  
8 California with its principal place of business in Los Angeles, California.

9 3. Defendant is an individual residing in St. Charles, Illinois.  
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11 **JURISDICTION AND VENUE**

12 4. This court has subject matter jurisdiction over Plaintiff’s Complaint  
13 pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 and pursuant to 28 U.S.C. §  
14 1331, as it arises under federal law, 28 U.S.C. § 1332 because Plaintiff and Defendant  
15 are citizens of different states and the amount in controversy is more than \$75,000 and  
16 28 U.S.C. § 1338 because it relates to the transfer of rights under copyright pursuant to  
17 17 U.S.C. § 106.  
18

19 5. This Court has personal jurisdiction over Defendant due to Defendant’s  
20 continuous and systematic contacts with this state and District. In particular, by virtue  
21 of negotiating and entering into the agreement at issue here with Plaintiff, maintaining a  
22 representative in Los Angeles and conducting other business activities here, Defendant  
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1 has conducted substantial business in, and has significant contacts to, California and this  
2 District.  
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4 6. Venue is proper in this court under 28 U.S.C. §§ 1391(b)(2) and (3).  
5

### 6 FACTS

7 7. Plaintiff is a motion picture production company based in Los Angeles,  
8 California. At some point in early 2014, one of Plaintiff's principals, Edward Bates  
9 ("Bates"), was asked by an industry colleague if Bates would be willing to talk to  
10 Defendant, a novelist whom the colleague knew who wanted to develop his novels into  
11 motion pictures. As a result, Defendant and Bates had an initial telephone conversation  
12 in which Defendant asked Bates to read Defendant's novel THE PITCHER ("Work") to  
13 see if Plaintiff might be interested in producing a feature motion picture or television  
14 program based on the Work. Bates subsequently read the Work and determined that,  
15 with the right adaptation, it could in fact be the basis for a motion picture or television  
16 program.  
17

18 8. As a result, after determining that Defendant was the owner of the necessary  
19 Rights in the Work, Plaintiff negotiated an agreement dated May 18, 2014 between  
20 Defendant and Plaintiff whereby Defendant granted Plaintiff an Initial Option Period of  
21 eighteen (18) months to "shop" the Rights (i.e., approach financing sources in order to  
22 obtain Project financing with Plaintiff "attached" as a Producer) ("Shopping  
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1 Agreement"). The Shopping Agreement gave Plaintiff the right to extend that Initial  
2 Option Period for an additional six (6) months to a "Second Option Period" for a  
3 payment to Defendant of One Thousand Dollars (\$1,000).  
4

5 9. Paragraph 1 of the Shopping Agreement provided that the consideration for  
6 Plaintiff's option to acquire the Rights was Plaintiff's obligation to pay Defendant the  
7 sum of One Dollar (\$1.00), which Plaintiff did. Paragraph 1 of the Amendment A to the  
8 Shopping Agreement - which was drafted and requested by Defendant's counsel - further  
9 provided that Plaintiff's efforts to "secure development and production financing" for a  
10 Project based on the Work constituted consideration for Plaintiff's representation of the  
11 Rights. A true and correct copy of the Shopping Agreement is attached hereto as Exhibit  
12 1 and incorporated herein by reference.  
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16 10. On July 26, 2015, during the Initial Option Period, Plaintiff signed a  
17 Nondisclosure Agreement with a potential financier of a motion picture Project  
18 ("Financier"). On July 29, 2015, Plaintiff received a proposed budget for the Project.  
19 That same day, Defendant and Bates had a telephone conversation in which Bates  
20 explained to Defendant the risk of proceeding with the Financiers on the Project. During  
21 that conversation, Defendant and Plaintiff agreed that if Defendant and Plaintiff decided  
22 to move forward with the Financier, the Initial Option Period would have to be tolled  
23 during such time as the Financier was raising the money to finance the Project.  
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1           11. On July 31, 2015, Bates had lunch with the Financier's representatives.  
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3 Later that afternoon, Defendant and Bates had another telephone conversation in which  
4 Bates outlined his assessment of the Financier's representatives and the process which  
5 lay ahead were Plaintiff and Defendant to proceed with the Financier, and reiterated the  
6 risk of doing so. Defendant responded by e-mail at 4:17 p.m. "Great news. I say go for  
7 it." A true and correct copy of that e-mail is attached hereto as Exhibit 2 and  
8  
9 incorporated herein by reference.  
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11           12. Accordingly, as of July 31, 2015, the Initial Option Period was suspended.  
12 Since the Initial Option Period was not originally set to expire until November 18, 2015,  
13 it was Plaintiff's understanding and belief that it had an additional 110 days (July  
14 31-November 18, 2015) remaining on the Initial Option Period from the date, if ever,  
15 that its efforts to finance the Project through the Financier ended.  
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18           13. In or around August, 2015, the Financier requested that the Shopping  
19 Agreement be amended to clarify that Plaintiff had an option to acquire the Rights for a  
20 stated price. As a result, and subsequent to a telephone conversation Defendant had  
21 with Bates in which Defendant agreed to do so, Defendant and Plaintiff entered into an  
22 agreement to amend the Shopping Agreement on or about November 16, 2015 (the  
23 "Option Agreement").  
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1           14. The Option Agreement amended the Shopping Agreement so that it now  
2 more clearly granted Plaintiff an option to acquire the Rights, for a stated Purchase Price  
3 of \$82,000, and extended the Initial Option Period for an additional two months from  
4 eighteen (18) months to twenty (20) months. The Option Agreement still provided that  
5 Plaintiff could extend the Initial Option Period for an additional six (6) months for  
6 \$1,000. A true and correct copy of the Option Agreement is attached hereto as Exhibit 3  
7 and incorporated herein by reference.  
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11           15. The consideration for the Option Agreement's two (2) month extension of  
12 the original eighteen (18) month Initial Option Period in the Shopping Agreement, was  
13 Plaintiff's continuing efforts to obtain financing for the Project, as reflected by the  
14 potential Project financing Plaintiff had arranged with Financier. Moreover, that two (2)  
15 month extension of the Initial Option Period was consistent with Plaintiff's  
16 understanding that the Initial Option Period had been tolled beginning July 31, 2015  
17 pursuant to Defendant's agreement with Plaintiff to that effect on that date.  
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21           16. In January, 2016, the Financier indicated that it would need more time to  
22 complete the financing for the Project. Accordingly, prior to January 18, 2016 - the  
23 earliest date the Option Agreement's now twenty (20) Initial Option Period could be  
24 deemed to expire, Bates and Defendant had a telephone conversation in which Defendant  
25 agreed to further extend the Initial Option Period until March 1, 2016.  
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1           17. Once again, the consideration for this further extension of the Initial Option  
2 Period was Plaintiff's ongoing efforts to obtain financing for the Project and, once again,  
3 this further extension was consistent with the parties' July 31, 2015 agreement that the  
4 Initial Option Period was tolled so long as Plaintiff was still working with Financier to  
5 finance a motion picture Project based on the Work.  
6

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8           18. On January 26, 2016, Defendant sent an e-mail to Plaintiff confirming that  
9 the "original option" was, in fact, extended to March 1, 2016. A true and correct copy  
10 of that January 26, 2016 e-mail is attached hereto as Exhibit 4 and incorporated herein by  
11 reference.  
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14           19. Plaintiff was therefore very surprised to receive an e-mail from Defendant  
15 on January 29, 2016 purporting to terminate the Option Agreement. Defendant had no  
16 rights to terminate the Option Agreement pursuant to any provision thereof or otherwise.  
17 Moreover, the Initial Option Period had been tolled by the parties' July 31, 2015  
18 agreement or, alternatively, expired on March 1, 2016 at the earliest. Accordingly,  
19 Defendant's January 29, 2016 e-mail constituted a breach of the Option Agreement, and  
20 was of no force and effect in terminating the Option Agreement.  
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23           20. Plaintiff's business relationship with Financier ended on or around January  
24 28, 2016. Accordingly, based on the parties' July 31, 2015 agreement, the Initial Option  
25 Period began to run again on that date, and expired on May 17, 2016 (110 days from  
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1 January 28, 2016). At the earliest, the Initial Option Period expired on March 1, 2016  
2 based on Defendant's January 26, 2016 extension thereof.  
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4 21. On February 1, 2016, before the earliest conceivable expiration of the Initial  
5 Option Period, Plaintiff, pursuant to paragraph 1 of the Shopping Agreement, sent  
6 Defendant written notice, accompanied by the requisite One Thousand Dollars (\$1,000)  
7 payment, that it was extending the Initial Option Period for six (6) months. As a result,  
8 Plaintiff at that point had the right to exercise the Option and acquire the Rights at least  
9 until September 2, 2016.  
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11 22. Defendant refused to accept the notice or the One Thousand Dollars  
12 (\$1,000) extension payment or acknowledge the validity of the extension. Instead  
13 Defendant's attorney communicated to Plaintiff that it was Defendant's belief that the  
14 Option Agreement had expired and that Plaintiff no longer owned an option to the Rights  
15 and therefore could not extend the Option for an additional six (6) months or at all.  
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17 23. Subsequent to Plaintiff's valid and enforceable February 1, 2016 extension  
18 of the Option to the Second Option Period ending September 1, 2016, Plaintiff was able  
19 to locate alternative financing sources for a motion picture based on the Project.  
20 Accordingly, pursuant to paragraph 1 of Schedule A of the Option Agreement, Plaintiff  
21 exercised the Option on April 5, 2016 by sending Defendant written notice of such  
22 exercise along with a check for Eighty Three Thousand Dollars (\$83,000), representing  
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1 the Purchase Price of Eighty Two Thousand Dollars (\$82,000) and the One Thousand  
2 Dollars (\$1,000) extension payment that Defendant had previously refused without  
3 cause.  
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5 24. Defendant has refused to accept the payment of the Purchase Price and  
6 extension and has maintained his position that the Option Agreement has expired and  
7 that Plaintiff does not own the Rights in the Work.  
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10 **FIRST CLAIM FOR RELIEF**

11 **(Declaratory Judgment - 28 U.S.C. § 2201)**

12 25. Plaintiff hereby realleges and incorporates by reference the allegations of  
13 paragraphs 1 through 24 of the Complaint as though fully set forth herein.  
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15 26. There is an actual, substantial and continuing controversy between Plaintiff  
16 and Defendant regarding the ownership of the Rights. Plaintiff contends that it properly  
17 extended the Initial Option Period and subsequently exercised the Option under the  
18 Option Agreement and purchased the Rights by tendering notice and payment therefor to  
19 Defendant. Defendant, on the other hand, contends that the Option Agreement had  
20 expired when Plaintiff extended the Initial Option Period on February 1, 2016 and that  
21 said extension, and Plaintiff's subsequent exercise of the Option and purchase of the  
22 Rights on April 5, 2016 were invalid.  
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1           27. Moreover, this actual and ongoing controversy is ripe for judicial  
2 determination. Plaintiff has already engaged casting directors for the movie Project  
3 based on the Work, and is prepared to make “pay or play” (i.e., guaranteed) offers to  
4 certain cast members, with a proposed “start date” to commence principal photography  
5 in the fall of this year. However, unless and until Plaintiff can obtain a declaratory  
6 judgment that it owns the Rights, it cannot warrant a clear chain of title to its financiers  
7 and proceed with the production of the Project. As a result, Plaintiff risks losing the  
8 Project financing and the availability of its preferred cast and crew.  
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12                                   **PRAYER FOR RELIEF**  
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14           Wherefore, Plaintiff pray that this court enter judgment against Defendant as  
15 follows:  
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17           1. For a declaration that Plaintiff is the owner of the motion picture, television,  
18 other screen media and certain allied and ancillary rights in and to the novel THE  
19 PITCHER (the “Rights”) as set forth in the parties’ Option Agreement;  
20

21           2. For a permanent injunction prohibiting Defendant from communicating to  
22 any third party in any manner that Plaintiff does not own the Rights, from negotiating  
23 with any third party to convey, assign, license or transfer the Rights and from conveying,  
24 assigning, licensing or transferring the Rights to any third party;  
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1           3.     For Plaintiff's costs of suit herein, including its reasonable attorney's fees  
2 and expenses; and  
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4           4.     For such other and further relief as the court deems just and proper.

5 DATED: May 3, 2016

LAW OFFICES OF MICHAEL R. BLAHA

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8                               By: /s/ Michael R. Blaha  
9                               MICHAEL R. BLAHA  
10                              Attorneys for Plaintiff  
11                              GIGANTIC PICTURES, INC.  
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